STATE PERSONNEL BOARD CALENDAR



JULY 24, 2007 SACRAMENTO

State of California

Memorandum

DATE: July 13, 2007

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD – Executive Office

SUBJECT: Notice and Agenda for the **July 24**, **2007**, meeting of the State Personnel

Board.

PLEASE TAKE NOTICE that on July 24, 2007, at offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the July 24, 2007, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 52, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:

http://www.spb.ca.gov/calendar.htm

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.

Karen Yu

Secretariat's Office

Attachment





CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall Sacramento, California

Public Session Location - 801 Capitol Mall Sacramento, California, Room 150 Teleconference – 320 West 4th Street² Los Angeles, California, Suite 620

Closed Session Location - 801 Capitol Mall Sacramento, California, Room 141 Teleconference – 320 West 4th Street Los Angeles, California Suite 620

MID MONTH BOARD MEETING - JULY 24, 2007

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at

^{(916) 653-0429,} or CALNET 453-0429, TDD (916) 654-2360. ²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

MID MONTH BOARD MEETING AGENDA³

JULY 24, 2007

9:00 a.m. – 10:30 a.m. (or upon completion of business)

PLEASE NOTE: ALL TIMES ARE APPROXIMATE AND ARE SUBJECT TO CHANGE

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:30 a.m.)

- 1. ROLL CALL
- 2. REPORT OF THE EXECUTIVE OFFICER Suzanne M. Ambrose
- 3. REPORT OF THE CHIEF COUNSEL Elise Rose
- 4. NEW BUSINESS

Items may be raised by Board Members for scheduling and discussion for future meetings.

5. REPORT ON LEGISLATION – Sherry Evans

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(9:30 a.m. - 10:00 a.m.)

6. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

³ The Agenda for the Board Meetings can be obtained at the following internet address: http://www.spb.ca.gov/calendar.htm

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126(c)(3), and 18653.]

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial. [Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California
United States District Court, Northern District of California
Case No. C 04-03339 CRB

<u>Plata, et al. v. Schwarzenegger, et al.</u> Case No. C01-1351 TEH

Colocousis, et al. v. State Personnel Board, et al. Sacramento Superior Court Case No. 07CS00461

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature. [Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. - Onwards)

11. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF AUGUST 7-8, 2007, IN LOS ANGELES, CALIFORNIA

BOARD ACTIONS:

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JUNE 19, 2007

- **13. EVIDENTIARY CASES -** (See Case Listings on Pages 10–17)
- 14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION (See Agenda on Pages 22–23)
- **15. NON-EVIDENTIARY CASES -** (See Case Listings on Pages 17–19)
- 16. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seg.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

NONE PRESENTED

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE PRESENTED

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE PRESENTED

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and the State Personnel Board approves it, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, FIRE PROTECTION PROGRAMS

The Department of Forestry and Fire Protection (CAL FIRE) proposes to re-allocate the existing CEA allocation titled Deputy Director, Fire Protection, to the above titled position. The Chief, Fire Protection Programs serves as chief administrator and principal advisor to the Directorate on all policy matters related to the statewide fire protection program in CAL FIRE.

CHIEF OF NORTHERN OPERATIONS

The Department of Forestry and Fire Protection proposes to re-allocate the existing CEA allocation titled Region Chief, Cascade, to the above titled position. The Chief of Northern Operations provides significant input toward the development of statewide policies as they relate to the needs of their regional area.

CHIEF OF SOUTHERN OPERATIONS

The Department of Forestry and Fire Protection proposes to re-allocate the existing CEA allocation titled Region Chief, Sierra, to the above titled position. The Chief of Southern Operations provides significant input toward the development of statewide policies as they relate to the needs of their regional area.

ASSISTANT REGION CHIEF, NORTHERN OPERATIONS

The Department of Forestry and Fire Protection (CAL FIRE) proposes to re-allocate the existing CEA allocation titled Region Chief, Coast, to the above titled position. The Assistant Region Chief, Northern Operations is responsible for developing, influencing, formulating, implementing, and the continued evaluating of departmental programs and policies related to the major functions of the region including: fire protection; forest; range; watershed; and other CAL FIRE programs.

ASSISTANT REGION CHIEF, SOUTHERN OPERATIONS

The Department of Forestry and Fire Protection (CAL FIRE) proposes to re-allocate the existing CEA allocation titled Region Chief, South, to the above titled position. The Assistant Region Chief, Southern Operations is responsible for developing, influencing, formulating, implementing, and the continued evaluating of departmental programs and policies related to the major functions of the region including: fire protection; forest; range; watershed; and other CAL FIRE programs.

ASSISTANT CHIEF COUNSEL, LEGAL AFFAIRS DIVISION

The Board of Equalization proposes to allocate the above position to the CEA category. The Assistant Chief Counsel, Legal Affairs Division develops critical department policies by consistently litigating tax matters that are contrary to the Board of Equalization's position on specific tax issues.

ASSISTANT CHIEF COUNSEL, TAX AND FEE PROGRAMS

The Board of Equalization proposes to allocate the above position to the CEA category. The Assistant Chief Counsel, Tax and Fee Programs is the chief policymaker with respect to legal issues related to every tax and fee program administered by the Board of Equalization.

ASSISTANT DEPUTY STATE CONTROLLER, OFFICE OF THE STATE CONTROLLER

The Office of the State Controller proposes to allocate the above position to the CEA category. This position may be called upon to serve as the State Controller's principal representative for any of the State Boards and Commissions, as well as have the authority to make decisions on his behalf. The position also communicates the Office of the State Controller's statewide policy direction.

COUNSEL, MULTISTATE TAX AFFAIRS, FRANCHISE TAX BOARD

The Franchise Tax Board proposes to allocate the above position to the CEA category. The position is responsible for advising the Executive Officer and Senior Management as the key legal expert and technical and policy advisor on multistate and multinational tax issues as well as a variety of other legal matters and formulates.

STATEWIDE DENTAL DIRECTOR

The Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Statewide Dental Director manages development, monitoring, evaluation, and improvement in one of six major program areas and is instrumental in both achieving the objectives outlined in the CDCR Strategic Plan and complying with litigation mandates, especially as related to *Perez v Schwarzenegger*.

DEPUTY STATEWIDE DIRECTOR, CORRECTIONAL FACILITY

The Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Deputy Statewide Director, Correctional Facility, in coordination with the Statewide Dental Director, Correctional Facility assists in the formulation of the strategic planning, oversight of the development and implementation of the Inmate Dental Services Program's Strategic Plan, administration and oversight in achievement of statewide compliance with the settlement agreement of the *Perez v Schwarzenegger* litigation and sets policy to improve access to the quality of dental services to inmate patients within CDCR.

REGIONAL DENTAL DIRECTORS, CORRECTIONAL FACILITY, INMATE DENTAL SERVICES

The Department of Corrections and Rehabilitation proposes to allocate four positions to the CEA category to act as Regional Dental Directors for the Inmate Dental Services Program. The Regional Dental Director, Correctional Facility positions develop, direct and controls implementation and quality assurance of the Inmate Dental Services Program.

DEPUTY DISTRICT DIRECTOR, CAPITAL DELIVER, DISTRICT 11

The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director is responsible for policy development, direction and coordination of the operations of the Capital Delivery Division. These functions include developing and implementing policies for project management, project management support, program management, and capital outlay management support.

CHIEF, ENTERPRISE RISK MANAGEMENT, DEPARTMENT OF CORRECTIONS AND REHABILITATION

The Department of Corrections and Rehabilitation (CDCR) proposes to allocate the above position to the CEA category. The Chief, Enterprise Risk Management (ERM) is responsible for managing the ERM Program for CDCR. The ERM will periodically review, evaluate, and report on the overall effectiveness of various elements related to risk management program elements, as well as advise the Office of Risk Management Assistant Secretary, Executive, and other top management staff on matters relating to the implementation of ERM programs.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

CHIEF, CRIMINAL INTELLIGENCE & ANALYSIS UNIT, OFFICE OF CORRECTIONAL SAFETY

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective June 18, 2007.

SOUTHERN REGIONAL LIAISON, DIVISION OF COMMUNITY PARTNERSHIPS

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective June 18, 2007.

PROJECT MANAGER, DIVISION OF WORKER'S COMPENSATION

The Department of Industrial Relation's proposal to allocate the above position to the CEA category has been approved effective June 18, 2007.

CHIEF, PLATA SELECTION SERVICES

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been approved effective June 18, 2007.

CHIEF OMBUDSMAN, OFFICE OF THE OMBUDSMAN

The Department of Corrections and Rehabilitation's proposal to allocate the above position to the CEA category has been withdrawn effective June 27, 2007.

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ASSISTANT DEPUTY DIRECTOR, CENTER FOR ENVIRONMENTAL HEALTH

ASSISTANT DEPUTY DIRECTOR, CENTER FOR INFECTIOUS DISEASE

ASSISTANT DEPUTY DIRECTOR, CENTER FOR CHRONIC DISEASE PREVENTION

The Department of Public Health's proposal to allocate the above positions to the CEA category has been approved effective June 19, 2007.

PROJECT MANAGER, ELECTRONIC ADJUDICATION MANAGEMENT SYSTEM

The Department of Industrial Relation's proposal to allocate the above position to the CEA category has been approved effective June 18, 2007.

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

- 20. WRITTEN STAFF REPORT FOR BOARD INFORMATION
- 21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY
- 22. RESOLUTION REGARDING REQUEST OF CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION (CDCR) TO USE 3-RANK LISTS FOR CDCR DENTAL CARE POSITIONS
- 23. BOARD ACTIONS ON SUBMITTED ITEMS (See Agenda on Pages 20–21)

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those are listed separately by category on this agenda under Evidentiary Cases.

ADJOURNMENT

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

(1) CASE NO. 05-1007EA

Appeal from denial of discrimination complaint

Classification: Outside contractor

Department: Department of Transportation

Proposed decision rejected December 19, 2006.

Pending oral argument April 3, 2007, Sacramento.

Oral argument continued.

Oral argument heard July 10, 2007, Sacramento.

Case ready for decision by FULL Board.

(2) CASE NO. 06-0760A

Appeal from rejection during probation

Classification: Parole Agent I (Adult Parole)

Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.

Transcript prepared.

Pending oral argument February 6-7, 2007, Los Angeles.

Oral argument continued.

Pending oral argument May 8, 2007, Sacramento.

Oral argument continued.

Oral argument heard July 10, 2007, Sacramento.

Case ready for decision by FULL Board.

(3) CASE NO. 05-2888PA

Appeal from dismissal

Classification: Staff Services Analyst (General)

Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.

Transcript prepared.

Pending oral argument March 2 2007, Sacramento.

Oral argument continued.

Oral argument heard June 5, 2007, Sacramento.

Case ready for decision by FULL Board.

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(4) CASE NO. 05-1067A

Appeal from dismissal

Classification: Investigator

Department: Department of Motor Vehicles

Proposed decision rejected January 9, 2007.

Transcript prepared.

Pending oral argument May 8, 2007, Sacramento.

Oral argument heard May 8, 2007. Case ready for decision by FULL Board.

(5) CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

Petition for Rehearing granted February 20, 2007.

Transcript prepared.

Pending oral argument May 8, 2007, Sacramento.

Oral argument heard May 8, 2007.

Case ready for decision by FULL Board.

B. <u>CASES PENDING</u>

ORAL ARGUMENTS

NONE PRESENTED

C. <u>CHIEF COUNSEL RESOLUTIONS</u>

(1) CASE NO. 06-4149EP

Petition for hearing

Classification: Staff Psychiatrist

Department: Department of Social Services

Notice of Findings Dismissing Whistleblower Retaliation Complaint

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

NONE PRESENTED

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STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

NONE PRESENTED

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

(1) CASE NO. 06-1138

Appeal from dismissal

Classification: Correctional Lieutenant

Department: Department of Corrections and Rehabilitation

(2) CASE NO. 06-3513

Appeal from dismissal

Classification: Custodian

Department: Department of Mental Health

(3) CASE NO. 07-0117

Appeal from five percent reduction in salary for six months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

(4) CASE NO. 06-2455

Appeal from five percent reduction in salary for twelve months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

(5) CASE NO. 06-1485

Appeal from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

(6) CASE NO. 06-3342

Appeal from 20 working days suspension

Classification: Officer

Department: Department of California Highway Patrol

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(7) CASE NO. 06-1645

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

(8) CASE NO. 07-0877

Appeal from 5 days suspension

Classification: Officer

Department: California Highway Patrol

(9) CASE NO. 07-0892

Appeal from 5 days suspension

Classification: Officer

Department: California Highway Patrol

(10) CASE NO. 07-0095

Appeal from 3 days suspension

Classification: Officer

Department: California Highway Patrol

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

(1) CASE NO. 06-1574P

CASE NO. 06-1576P

CASE NO. 06-1642P

Appeals from dismissal

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

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(2) CASE NO. 05-4091P

Appeal from medical termination

Classification: Youth Correctional Officer

Department: Department of Corrections and Rehabilitation

(3) CASE NO. 05-0557RP

Appeal from one year suspension and demotion

Classification: Professor

Department: California State University, Stanislaus

(4) CASE NO. 05-3703P

Appeal from 30 working days' suspension

Classification: Officer

Department: Department of California Highway Patrol

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

NONE

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

(1) CASE NO. 03-3412PA

Appeal from rejection during probation

Classification: Correctional Counselor II (Supervisor)

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted April 3, 2007.

Transcript prepared.

Pending oral argument July 10-11, 2007, Sacramento.

Oral argument continued.

Pending oral argument September 4-5, 2007, Sacramento.

(2) CASE NO. 06-3534A

Appeal from constructive medical termination

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Proposed decision rejected June 19, 2007.

Pending transcript.

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(3) CASE NO. 06-3014PA

Appeal from punitive transfer

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Petition for rehearing granted July 10, 2007.

Pending transcript.

(4) CASE NO. 06-3023A

Appeal from ten percent reduction in salary for three months

Classification: Psychiatric Technician

Department: Department of Corrections and Rehabilitation

Proposed decision rejected March 2, 2007.

Transcript prepared.

Pending oral argument August 7-8, 2007, Los Angeles.

(5) CASE NO. 05-1285A

Appeal from dismissal

Classification: Public Safety Dispatcher II

Department: Department of California Highway Patrol

Proposed decision rejected January 9, 2007.

Transcript prepared.

Pending oral argument June 5, 2007, Sacramento.

Oral argument continued.

Pending oral argument September 4-5, 2007, Sacramento.

(6) CASE NO. 06-1338A

Appeal from rejection during probation

Classification: Industrial Relations Counsel III (Specialist)

Department: Department of Industrial Relations

Proposed decision rejected May 8, 2007.

Transcript prepared.

Pending oral argument August 7-8, 2007, Los Angeles.

(7) CASE NO. 05-1432E

Appeal from denial of sexual harassment complaint Classification: Health Facilities Evaluator Nurse Department: Department of Health Services

Proposed decision rejected June 5, 2007.

Transcript prepared.

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(8) CASE NO. 05-3327A

Appeal from dismissal

Classification: Medical Technical Assistant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected July 10, 2007.

Pending transcript.

(9) CASE NO. 06-1732

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission June 19, 2007.

(10) CASE NO. 06-0738A

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 18, 2007.

Transcript prepared.

Pending oral argument September 4-5, 2007, Sacramento.

(11) CASE NO. 06-2010A

Appeal from medical termination

Classification: Administrative Support Coordinator II **Department:** California State University, Los Angeles

Proposed decision rejected May 8, 2007.

Transcript prepared.

Pending oral argument August 7-8, 2007, Los Angeles.

(12) CASE NO. 07-1381A

Appeal from dismissal

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 5, 2007.

Transcript prepared.

Pending oral argument October 2-3, 2007, Sacramento.

(13) CASE NO. 05-1043P

Appeal from dismissal

Classification: Tax Counsel, Range D Department: Board of Equalization

Petition for rehearing granted June 5, 2007.

Transcript prepared.

Pending oral argument October 2-3, 2007, Sacramento.

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(14) PSC No. 06-03, CASE NO. 07-0806PA

Appeal from Executive Officer's disapproval of Unarmed Security Guard Services

Department: California Highway Patrol

Petition for rehearing granted May 8, 2007. Pending oral argument September 4-5, 2007, Sacramento.

15. NON-EVIDENTIARY CASES

A. <u>WITHHOLD APPEALS</u>

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

<u>WITHHOLD FROM CERTIFICATION</u> CASES HEARD BY A STAFF HEARING OFFICER

NONE PRESENTED

WITHHOLD FROM CERTIFICATION CASES NOT HEARD BY A STAFF HEARING OFFICER

(1) CASE NO. 06-1423N

Classification: Youth Correctional Counselor

Department: Department of Corrections & Rehabilitation

Issue: Suitability; negative employment record.

(2) CASE NO. 05-3633

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: Suitability; omitted pertinent information.

(3) CASE NO. 06-1392N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation **Issue:** Suitability; furnished inaccurate information, negative

driving record, negative employment record.

(4) CASE NO. 06-2413N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation **Issue:** Suitability; omitted pertinent information, negative law

enforcement contacts.

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(5) CASE NO. 06-1364N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: Suitability; a negative driving record.

(6) CASE NO. 06-2131N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: Suitability; omitted pertinent information during the selection

process.

(7) CASE NO. 06-2402N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: Suitability; a firearms prohibition.

(8) CASE NO. 06-1361N

Classification: CHP Cadet

Department: California Highway Patrol

Issue: Suitability; omitted pertinent information.

(9) CASE NO. 06-2696N

Classification: Medical Technical Assistant

Department: Department of Corrections & Rehabilitation **Issue:** Suitability; lack of thoroughness, accuracy and good

judgment.

(10) CASE NO. 06-0992

Classification: Cadet, CHP

Department: California Highway Patrol

Issue: Suitability; honesty, integrity, responsibility and driving

record.

(11) CASE NO. 06-1146N

Classification: Correctional Officer

Department: Department of Corrections & Rehabilitation

Issue: Suitability; firearms prohibition.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE PRESENTED

C. EXAMINATION APPEALS MINIMUM QUALIFICATIONS MERIT ISSUE COMPLAINTS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE PRESENTED

D. RULE 211 APPEALS RULE 212 OUT OF CLASS APPEALS VOIDED APPOINTMENT APPEALS

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

CASE NO. 06-3906N

Department: State Personnel Board Exams Unit

Classification: Office Technician (Typing)

E. <u>REQUEST TO FILE CHARGES CASES</u>

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

(1) CASE NO. 06-0397N

Classification: Correctional Sergeant

Department: California Department of Corrections & Rehabilitation **Issue:** The charging party requests that charges be filed against

the charged party for violations of various subsections of

Government Code, section 19572.

PETITIONS FOR REHEARING CASES

NONE PRESENTED

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

6. CASE NO. 05-1067A

Appeal from dismissal. Investigator, DMV. Department of Motor Vehicles. (Oral argument held May 8, 2007.)

7. CASE NO. 04-2919ERPA

Appeal from discrimination and retaliation. Physician & Surgeon, CF. Department of Corrections and Rehabilitation. (Oral argument held May 8, 2007.)

8. CASE NO. 05-2888PA. Appeal from dismissal. Staff Services Analyst (General). Department of Consumer Affairs. (Oral argument held June 5, 2007.)

Agenda – Page 21 July 24, 2007

- **9. CASE NO. 06-1732.** Appeal from 10 percent reduction in salary for 12 pay periods. Correctional Sergeant. Department of Corrections and Rehabilitation. (Presented to the Board June 19, 2007.)
- 10. HEARING PROPOSED AMENDMENTS TO REGULATIONS CONCERNING PROCEDURES THAT APPLY TO COST SAVINGS PERSONAL SERVICES CONTRACTS UNDER GOVERNMENT CODE SECTION 19130(a) (Hearing held July 10, 2007.)
- **11. CASE NO. 05-4007EA.** Appeal from denial of discrimination complaint. Outside contractor. Department of Transportation. (Oral argument held July 10, 2007.)
- **12. CASE NO. 06-0760A.** Appeal from rejection during probation. Parole Agent I (Adult Parole). Department of Corrections and Rehabilitation. (Oral argument held July 10, 2007.)
- 13. PERSONAL SERVICES CONTRACT NO. 07-01. Appeal of the Department of the California Highway Patrol (CHP) from the Executive Officer's February 21, 2007, Disapproval of CHP's Personal Services Contracts for Custodial Services at the following offices: Torrance Area Office (RFP 078CP62001); Yolo Area Office (RFP 078CP6159); Burney Area Office (RFP 078CP5634R); Anaheim Area Office (RFP 078CP6171); Los Angeles Area Office (RFP 078CP6167); Monterey Park Area Office (RFP 078CP6170); Oceanside Area Office (RFP 078CP6141); Blythe Area Office (RFP 078CP6139); Santa Ana Area Office (RFP 078CP5905R); and Redwood City Area Office (RFP 078CP6143I). (Oral argument held July 10, 2007.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State

Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no
later than 90 days after submission of a case, whichever is first, absent the publication of
substantial reasons for needing an additional 45 days, the Board hereby publishes its
substantial reasons for the need for the 45-day extension for some of the cases now
pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

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(Cal. 07/24/07)

TO: Members

State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding any bills that you may have an interest in. I can be reached at (916) 653-0453.

Sherry A. Evans

Director of Legislation

Sherry a. Evans

Attachment

STATE PERSONNEL BOARD LEGISLATIVE TRACKING REPORT 2007-08 SESSION

Status as of July 13, 2007



BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 67 (Dymally)	SUPPORT	AB 67 amends the provisions contained in the Dymally-Alatorre Bilingual Services Act (Act) that require state agencies to conduct a biennial language survey and implementation plan and employ qualified bilingual staff when a significant language need is identified. The amendments proposed by this Bill standardize and define language in the Act, clarify the State Personnel Board's (SPB's) responsibility to establish bilingual fluency standards, and expand the SPB's ability to grant exemptions to the language survey and implementation plan.	07/11/2007-Read second time. To third reading. 07/11/2007-S THIRD READING 07/16/07 145 SEN THIRD READING FILE
AB 160 (Lieber)	Watch	Would establish the California Sentencing Commission, with specified membership and terms, to devise sentencing guidelines. The bill would also create a Judicial Advisory Committee composed of judges, as specified, to assist the commission. This bill contains other related provisions.	07/10/2007-Do pass as amended, and re-refer to the Committee on Appropriations. 07/10/2007-S APPR.
<u>AB 174</u> (<u>Price</u>)	No Position	This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs.	07/09/2007-From APPR.: To APPR. SUSPENSE 07/09/2007-S APPR. SUSPENSE
<u>AB 220</u> (<u>Bass</u>)	Watch	Would enact the Firefighters Procedural Bill of Rights Act to prescribe various rights of firefighters, defined as any firefighter employed by a public agency, including a firefighter who is a paramedic or emergency medical technician, with specified exceptions. The bill would prescribe rights related to, among others, political activity, interrogation, punitive action, and administrative appeals, with specified requirements imposed upon the employing agency and the imposition of a civil penalty for a violation thereof. The bill would also specify that reimbursement of funds by the state shall be limited to the actual costs associated with the act, as specified. This bill contains other related provisions and other existing laws.	07/11/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 3. Noes 2.) . 07/11/2007-S APPR.

AB 295 (Lieu)	No Position	Would require specified state agencies to use additional separate collection categories and tabulations for other major Asian and Pacific Islander groups, including Bangladeshi, Fijian, Hmong, Indonesian, Malaysian, Pakistani, Sri Lankan, Taiwanese, Thai, and Tongan. This bill would also require that these specified state agencies update their data collection categories to match those used by the United States Census Bureau. This bill would further require a state agency, board, or commission that directly or by contract collects demographic data, include data on specified collection categories and tabulations in any demographic report on ancestry or ethnic origins of Californians that it publishes or releases on or after July 1, 2009. This bill would further require a state agency, board, or commission to make the collected data available to the public, in accordance with state and federal law, except for personal identifying information, which shall be deemed confidential.	07/11/2007-From committee chair, with author's amendments: Amend, and rerefer to committee. Read second time, amended, and rereferred to Com. on APPR. 07/11/2007-S APPR. 07/16/07 10 a.m John L. Burton Hearing Room (4203) SEN APPROPRIATIONS
AB 392 (Lieu)	Watch	Would require a qualified employer to allow a qualified employee that is a spouse of a qualified member of the Armed Forces, National Guard, or Reserves to take up to 10 days of unpaid leave during a qualified leave period, as provided. This bill contains other related provisions.	07/11/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 4. Noes 0.) . 07/11/2007-S APPR.
<u>AB 503</u> (<u>Swanson</u>)	Watch	Would require the California Research Bureau to conduct a study, to be submitted to the Legislature by June 30, 2008, on issues related to a requirement that state and local agencies provide eight hours' written notice to employees who are required to work overtime. The bill would require the study to address the impacts of such a requirement on both employers and employees.	06/14/2007-Referred to Com. on RLS. 06/14/2007-S RLS.
AB 671 (Beall)		Would make legislative findings and declarations regarding the state's responsibility for the well-being of foster youth and former foster youth. The bill would require the State Personnel Board to establish an Emancipated Foster Youth Examination and Appointment Program to promote the hiring of qualified foster youth in specified entry level positions in any state agency or department as determined by the board. The bill would require the board or its designee to conduct competitive examinations to determine the qualifications and readiness of emancipated foster youths for state employment. It would require that all examination appointments to positions under the program be made on a temporary and provisional basis, and would provide that, with the approval of the board, a candidate who successfully completes this temporary period may be appointed,	07/10/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 3. Noes 2.) . 07/10/2007-S APPR. 07/16/07 10 a.m John L. Burton Hearing Room (4203) SEN APPROPRIATIONS

		without further examination, to an appropriate position in which civil service status may accumulate. The bill would allow applicants for and candidates in the program examination process to appeal specified actions. This bill contains other related provisions and other existing laws.	
<u>AB 721</u> (<u>Maze</u>)	Watch	Would provide that, notwithstanding any other provision of the act, when a Member of the Legislature requests a public record from a state agency, the state agency shall make the determination and notification required by these provisions immediately and in no event later than 3 business days after receipt of the request.	06/01/2007-Failed Deadline pursuant to Rule 61(a)(5). Last location was APPR. SUSPENSE FILE 06/01/2007-A 2 YEAR
AB 890 (Aghazarian)	Watch	Would create the Commission on Peace Officer Standards and Training, which would succeed to those functions.	07/10/2007-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 4. Noes 0.) . 07/10/2007-S APPR.
AB 933 (Jeffries)	No Analysis Required	Would revise these provisions. The bill would also delete obsolete statutory provisions relating to the Governor, Members of the Legislature, and other statewide elected officers.	07/11/2007-Read second time. To third reading. 07/11/2007-S CONSENT CALENDAR 07/16/07 208 SEN SPECIAL CONSENT CALENDAR #13
AB 1393 (Leno)	Watch	Would as of January 1, 2009, require any state agency that publishes an Internet Web site to include on the homepage of that site specified information that is not exempt from disclosure under the act about how to contact the agency, how to request records under the act, and a form for submitting online requests for records. It would authorize any person to bring an action to enforce the duty of a state agency to post this information and would provide for penalties including monetary awards to be paid by the agency, with specified provisions to become operative on January 1, 2009. This bill contains other related provisions.	07/10/2007-Do pass as amended, and re-refer to the Committee on Appropriations 07/10/2007-S APPR.
AB 1496 (Swanson)	No Position	Would require any city or county, except a charter city or county, or a charter city and county that provides a civil service system of employment in its charter, that adopts a civil service system or its equivalent, as specified, to provide for the classification of all employment positions. The bill would allow for the exclusion from that classification requirement, substitute and short-term employees, as	07/11/2007-In committee: Set, first hearing. Testimony taken. Further hearing to be set. 07/11/2007-S L. GOV.

		defined, and apprentices or professional experts employed on a temporary basis for a specific project. Further, prior to the hiring of any short-term employee, the bill would require the legislative body of a city or county to, at a public meeting, report on the specifics of that hiring and certify the ending date of service. The bill would require any existing system to conform to the above-described requirements by March 1, 2008. The bill would exempt from these provisions the continued employment or classification of a county or city employee who is appointed or deputized as a reserve or auxiliary peace officer, as defined, or who is a volunteer or reserve firefighter in the employ of a regularly organized fire department of a county or city.	
<u>AB 1648</u> (<u>Leno</u>)	Watch	Would provide that the confidentiality of peace officer records, as specified, does not apply to specified government bodies that review the investigations, findings, or employment actions of a department or agency. The bill would make specified information in certain disciplinary records pertaining to peace officers available to the public, as specified. This bill contains other related provisions and other existing laws.	05/02/2007-Failed Deadline pursuant to Rule 61(a)(2). Last location was PUB. S. 05/02/2007-A 2 YEAR
(Leno)	Watch	Would require the Director of Technology Services, in conjunction with the State Chief Information Officer and other specified state entities, to implement a project examining the use of an open file format with no more than 3 state agencies or departments. This bill would further require the State Chief Information Officer, in conjunction with other specified state entities, to report on the results of the project no later than January 10, 2009. This bill would also require the Department of General Services, in consultation with the State Chief Information Officer, to consider specific modifications to the standards used for the state to acquire information technology and to report its findings to the Legislature no later than October 1, 2008.	06/01/2007-Failed Deadline pursuant to Rule 61(a)(5). Last location was APPR. SUSPENSE 06/01/2007-A 2 YEAR
AB 1702 (Blakeslee)	SUPPORT	Would authorize the Department of Transportation to conduct competitive examinations on a position-specific basis for specified managerial classifications as agreed to by the State Personnel Board, as specified. The bill would also make legislative findings and declarations with regard to a related demonstration project. This bill contains other related provisions and other existing laws.	07/11/2007-Read second time. To third reading. 07/11/2007-S THIRD READING 07/16/07 168 SEN THIRD READING FILE

ACA 1 (Price)	Watch	Would assign the responsibility for adjusting boundary lines of Senate, Assembly, congressional, and State Board of Equalization districts to a commission that, subject to specified conditions, consists of 11 members, including the 9 public members of the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy and 2 additional persons appointed by those 9 members. It would require the Legislature to establish, by statute, procedures to ensure compliance with specified requirements for membership on the commission. This bill contains other related provisions.	06/21/2007-Re-referred to Com. on APPR. 06/21/2007-A APPR.
SB 26 (Simitian)	Neutral	This bill would require that demographic data collection by race be structured in a manner that allows the surveyed individual to select more than one race. A single category labeled "multi-racial" would be prohibited.	07/11/2007-Set, first hearing. Referred to APPR. suspense file. 07/11/2007-A APPR. SUSPENSE FILE
SB 519 (Committee on Governmental Organization)	Neutral	Would authorize the calling of a special meeting to provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.	07/12/2007-Enrolled. To Governor at 9:30 a.m. 07/12/2007-S ENROLLED
<u>SB 721</u> (<u>Ashburn</u>)	Watch	By January 1, 2010, this bill would require every state agency to establish and implement a succession plan, as defined. By January 1, 2012, the bill would require every state agency to report to the Legislature on the success or failure of the implemented succession plan, as specified.	07/05/2007-From committee: Do pass, but first be re- referred to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 10. Noes 0.) Re-referred to Com. on APPR. 07/05/2007-A APPR. 07/18/07 9 a.m Room 4202 ASM APPROPRIATIONS

SB 870 (Ridley- Thomas)	commence within one year of the cause for discipline.	06/27/2007-Set, first hearing. Referred to APPR. suspense file. 06/27/2007-A APPR. SUSPENSE FILE
<u>SB 1019</u> (<u>Romero</u>)	decision in Copley Press, Inc. v. Superior Court and to restore public access to meetings and hearings regarding peace officer discipline that were open prior to	06/26/2007-Set, first hearing. Held in committee without recommendation. 06/26/2007-A PUB. S.

STATE PERSONNEL BOARD NON-HEARING CALENDAR

RE: BOARD DATE JULY 24, 2007

(Cal. 07/24/07)

MEMO TO : STATE PERSONNEL BOARD

MIKE STRAZZO, Merit Employment and Technical Resources Division **FROM** :

Non-Hearing Calendar Items for Board Action SUBJECT :

NONE PRESENTED

(Cal. 07/24/07)

STATE PERSONNEL BOARD MEMO TO :

FROM : MIKE STRAZZO, Merit Employment and Technical Resources Division

Staff Calendar Items for Board Information SUBJECT :

NONE PRESENTED